

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE BROWN JUG, INC.,

Plaintiff,

Civil Action No. 20-CV-13003

vs.

HON. BERNARD A. FRIEDMAN

THE CINCINNATI INSURANCE CO.,

Defendant.

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ORDER DENYING DEFENDANT'S MOTION TO DISMISS AS MOOT

This matter is presently before the Court on defendant's motion to dismiss [docket entry 4]. Defendant filed the instant motion on January 11, 2021, and plaintiff subsequently filed an amended complaint on February 1, 2021 [docket entry 6]. Federal Rule of Civil Procedure 15(a)(1) provides that

[a] party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

Because plaintiff filed its amended pleading within twenty-one days after service of defendant's motion to dismiss under Rule 12(b)(6), plaintiff's amended complaint was permissibly filed. Thus, defendant's motion to dismiss is moot as it is directed to a now superseded pleading. Accordingly,

IT IS ORDERED that defendant's motion to dismiss is denied as moot.

Dated: February 17, 2021
Detroit, Michigan

s/Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE